

ARGUMENT/RESPONSE

The Examiner rejected claims 1-7 under 35 U.S.C. 102(b), arguing that claims 1-7 were anticipated by the Lavon et al reference. Applicant respectfully submits that claims 1-7 are patentably distinguishable over the Lavon et al., reference and respectfully submits the following in support of this assertion.

Claim 1 of the Applicant's disclosure reads as follows:

1. An absorbent article, said article being placeable between the body of a user and undergarments worn by the user, said article comprising:

a liquid pervious top sheet having an upper surface for engaging at least a portion of the body of the user;

a liquid impervious bottom sheet for protecting the undergarments of the user;

an absorbent core provided between said top sheet and said bottom sheet; and

a supplemental member defined by a slit cut through said upper surface of said top sheet and to a preselected depth into said absorbent core, said supplemental member having a removed end capable of movement between a retracted position and a projected position wherein said supplemental member extends at least partly above said top sheet of said article. (emphasis added)

First, it is respectfully argued that Lavon et al., does not disclose a supplemental member defined by a slit cut through the upper surface of said top sheet. The apertures of the Lavon et al., reference (46 and 47, respectively) referred to by the Examiner do not define a "member" at

all. Instead, the apertures of the Lavon et al reference create a “passageway for the communication of fecal material from the wearer’s anal opening into the void space 311.” See Column 6, Lines 17-20. In short, the apertures of the Lavon et al., reference define an open space, not a member capable of movement as required by claim 1.

Second, claim 1 of Applicant’s disclosure requires a supplemental member “having a removed end capable of movement between a retracted position and a projected position wherein the supplemental member extends at least partly above said top sheet of said article.” The Examiner’s analysis with regard to §102 rejection of claims 1, 2, and 5 ignores the capability of the supplemental member to extend at least partly above the top sheet of the article when in a projected position.

The Applicant respectfully directs the Examiner’s attention to Figures 3 and 4 of the Lavon et al., reference. These figures provide a side view of the invention disclosed by the Lavon et al., reference and illustrate both the apertures (46 and 47) and the expandable component (200), which was cited by the examiner as anticipating the supplemental member of the Applicant’s invention. Figures 3 and 4 illustrate that the apertures of the Lavon et al., reference do not form a supplemental member and instead form an empty space for receiving fecal matter. Further, Figure 4 clearly shows that the expandable component (200) cited by the examiner does not extend at least partly above the top sheet of the article when in an “expanded” position as required by claim 1 of Applicant’s disclosure.

Given that claim 1 is allowable in light of the cited reference, Applicant respectfully submits that claims 2-7 are also allowable as being dependent upon an allowable base claim. In light of the above, Applicant respectfully requests that the Examiner withdraw the §102(b) rejection of claims 1-7.